

Message Text

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ACTION L-03

INFO OCT-01 EUR-25 IO-14 ISO-00 SSO-00 NSCE-00 USIE-00

INRE-00 SP-03 AID-20 EB-11 NSC-07 RSC-01 CIEP-02

TRSE-00 SS-20 STR-08 OMB-01 CEA-02 CIAE-00 INR-10

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FM AMEMBASSY PRAGUE

TO SECSTATE WASHDC IMMEDIATE 6487

INFO US MISSION GENEVA PRIORITY 162

C O N F I D E N T I A L PRAGUE 1516

GENEVA FOR AMBASSADOR SHERER

E.O. 11652: GDS

TAGS: PFOR, EFIN, L/C, CZ, US

SUBJECT: CLAIMS NEGOTIATIONS

1. EXCEPT FOR PROCEDURES FOR DELIVERY OF GOLD, COVERED IN DRAFT ANNEX A AND RELATED ARTICLES, AND FOR MINOR DETAILS, WE NOW HAVE FULL AGREEMENT ON TEXT OF CLAIMS AGREEMENT.
2. DIFFICULTIES CONCERNING GOLD PROCEDURES HAVE TWO CAUSES:
(1) IT HAS ONLY NOW BECOME APPARENT THAT WE AND CZECHS (PLUS, APPARENTLY, BRITISH) HAD OVER YEARS HAD DIFFERENT UNDERSTANDING OF MEANING OF LANGUAGE OF 1964 US DRAFT ANNEX ON PROCEDURES, AND (2) CURRENT US DRAFT ANNEX IS NOT FULLY CONSISTENT WITH RELATED TERMS OF CZECH-BRITISH AGREEMENT ON GOLD DELIVERY AND PRELIMINARY PAYMENT TO BRITISH.
3. MISUNDERSTANDING, WE HAVE NOW LEARNED, ARISES FROM CZECH UNDERSTANDING THAT TERMS IVO 1964 ANNEX "HOLD AT CONFIDENTIAL
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DISPOSAL OF" AND "HOLD FOR ACCOUNT OF" MEANT THAT GOLD WOULD PHYSICALLY BE MOVED TO ZURICH UNDER THEN-PLANNED ESCROW

ARRANGEMENT. ADDITIONALLY, NEW US ANNEX, WHICH REMOVES REFERENCE TO ZURICH ARRANGEMENTS, HAS EFFECT OF UNDERCUTTING TERMS OF CZECH-BRITISH 1964 AGREEMENT UNDER WHICH CZECHS WOULD DEPOSIT ONE MILLION POUNDS UPON "TRANSFER" OF GOLD TO ZURICH.

4. CZECHS ARE AT SAME TIME CONCERNED THAT ANY PROCEDURE AGREED WITH US NOT INFRINGE ARRANGEMENTS WITH BRITISH, AND HIGHLY SENSITIVE THAT WE NOT CONSTRUCT ANY EXPECTATION OF ACTUAL SHIPMENT OF GOLD AS SIGN OF MISTRUST OF US INTENTION. THEY ALSO ARE DISTRESSED AT RISK THAT THIS PROCEDURAL SNAG MIGHT AFFECT TIMING OF INITIALLING, WHICH THEY HOPE CAN BE ACCOMPLISHED JULY 2, JUST AFTER AMBASSADOR'S RETURN FROM GENEVA.

5. IN INTENSIVE FORMAL DISCUSSIONS, WE AND CZECHS HAVE AGREED FROM OUTSET THAT NO ISSUE EXISTS ON BASIC QUESTIONS, I.E. THAT GOLD WILL BE PLACED AT UNHINDERED DISPOSAL OF CZECHS AND THAT WE WILL SIMULTANEOUSLY RECEIVE INITIAL PAYMENTS. THEY HAVE ALSO SAID WHILE THAT THEY HAVE ALWAYS UNDERSTOOD THAT GOLD IS TO BE PHYSICALLY DELIVERED TO ZURICH, THIS ITSELF IS NOT MATTER OF PRINCIPLE. THEY ALSO EXPECT THAT ANY SHIPMENT WOULD BE AT THEIR OPTION. WE HAVE POINTED OUT THAT PROCEDURES INVOLVING ISSUE OF DELIVERY ORDER RATHER THAN ACTUAL SHIPMENT ARE NORMAL PRACTICE. IN VIEW OF BRITISH PROBLEM, HOWEVER, AND PRESENCE OF GENUINE MISUNDERSTANDING, WE DO NOT FEEL ABLE TO INSIST CATEGORICALLY ON OUR SCENARIO.

6. IF WE CORRECTLY UNDERSTAND OUR POSITION, QUESTION OF ACTUAL HANDLING OF GOLD IS MORE FUNCTION OF TRIPARTITE GOLD COMMISSION PRACTICE THAN OF US POLICY. IF THIS IS SO, AND GIVEN NEED TO DEAL WITH DISCREPANCY BETWEEN US ANNEX AND BRITISH AGREEMENT, WE FORESEE NECESSITY FOR CONSULTATION AMONG US, CZECH AND BRITISH (IF NOT ALSO FRENCH) REPRESENTATIVES IN ORDER TO RESOLVE AND HARMONIZE DELIVERY PROCEDURES. WE ASSUME THAT THIS WOULD BE LENGTHY PROCESS. WITH THIS IN MIND, WE AND CZECHS ARE DISCUSSING POSSIBILITY THAT WE SET
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ASIDE GOLD ANNEX FOR TIME BEING AND INITIAL AGREEMENT WITH TEXT ADJUSTED TO PROVIDE THAT PROCEDURES FOR DELIVERY OF GOLD AND SIMULTANEOUS PAYMENTS BE AGREED PRIOR TO SIGNING.

7. WE SEE NO LEGAL FLAWS IN SUCH ARRANGEMENT. IF WE PROCEED ON THIS BASIS, IT WOULD MAKE ADVANTAGE OF COMPLETING SUBSTANTIVE NEGOTIATION WITH A REFERENDUM AGREEMENT ON ALL PROVISIONS AND TEXT. IT WOULD, OF COURSE, AVOID RECESS AT TIME WHEN CZECHS (AND, PRESUMABLY, WE) WOULD BE PLEASED TO REACH AGREEMENT ON CLAIMS. WHILE LEAVING PRO-

CEDURAL QUESTION UNRESOLVED OPENS RISK OF LATER FAILURE TO FORMALIZE INITIALLED AGREEMENT, THIS SEEMS HARDLY POSSIBLE IN CIRCUMSTANCES, PARTICULARLY SINCE CZECHS FULLY REALIZE THAT THEY CAN GET GOLD ONLY UNDER PROCEDURES AGREEABLE TO US, AND SINCE NO DIFFERENCES OF SUBSTANCE OR PRINCIPLE EXIST.

8. UNLESS DEPARTMENT CAN PROVIDE GUIDANCE WHICH COULD RESULT IN PROMPT RESOLUTION OF DIFFICULTY, WE WOULD APPRECIATE AS URGENTLY AS POSSIBLE REACTION TO ARRANGEMENT DESCRIBED IN PARA 6 ABOVE. IT WOULD BE HIGHLY DESIREABLE IF WE COULD QUICKLY TELL CZECHS WHETHER WE CAN PROCEED IN SOME FASHION OR MUST RECESS FOR CONSULTATIONS WITH BRITISH WLD COMMISSION. WORTZEL

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